

From: jmconaghy@fulbright.com
Sent: Tuesday, July 15, 2003 7:01 PM
To: Unity Comments
Subject: Unity Std.

Mr. Robert Clarke,

I am in favor of a strict application of the unity of invention principle.

It focuses on the concept of an invention rather than on multiple combinations of an accumulation of different parts. However, this should not be applied to the detriment of the applicant in the following respects:

1. Multiple independent claims in one category. A survey of patent infringement cases where an independent claim was found invalid and a claim depending therefrom was found valid was conducted several years ago. It established that this possibility was the exception, there having only been a couple examples. Not allowing multiple independent claims, albeit all claims would still be required to include the limitations of the base claim, pragmatically weakens a patent. I doubt that is the intent of this proposal.

2. Initial searching. Applicants pay by the claim and should receive a preliminary search on what they paid for. Unity is not always so clear that claims paid for and thought to comply would not be disallowed.

3. Stepping on one's own foot. The rules regarding prior art seems fair, including the ability to combine cases for prior art avoidance even if divided later. Care should be taken to keep the prior art status quo; or eligible applicants should be broadened to include business entities as in the countries we are following rather than separate combinations of employees.

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